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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,511	01/16/2001	Takayuki Hisanaka	2309/01158	5640

7590 09/04/2008
DARBY & DARBY P.C.
805 Third Avenue
new York, NY 10022

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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09/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/761,511

Applicant(s)

HISANAKA, TAKAYUKI

Examiner

Lynne Anderson

Art Unit

3761

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 11, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 11, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8 April 2008 have been fully considered but they are not persuasive.
2. In response to the applicant's argument that the polyethylene oxide of Ehrnsperger would preferably not have a melting point at skin temperature (i.e. from 35-40° C), it is noted that while internal body temperature falls within the range of 35-40° C, external body temperature (i.e. skin temperature) generally falls below 35° C, or 95° F. Therefore, the polyethylene oxide of Ehrnsperger would still be capable of functioning as a skin adherent with a melting point of 35° C. Further, it is noted that the composition of Ehrnsperger is soluble at 35° C, and since the polyethylene oxide is comprised in the composition, it will also be soluble at 35° to allow the composition to be soluble at that temperature.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 8, 11, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ehrnsperger et al. (6,160,200).

5. Ehrnsperger discloses an absorbent article 20 comprising a liquid pervious topsheet 24, a backsheet 26, and an absorbent core 26, as shown in figures 1-6. A skin-protective ingredient containing layer is applied to the upper surface of the topsheet 24, as disclosed in column 6, line 64-column 7, line 17, in a predetermined pattern. The skin-protective ingredient is fully capable of forming an oily film on the skin of a wearer. A support layer 66 is formed over the skin protective ingredient containing layer, as disclosed in column 17, lines 59-62, and covers substantially the entire article, as disclosed in column 11, lines 3-5. The skin protective ingredient containing layer comprises petroleum jelly, as disclosed in column 16, lines 60-62. The support layer 66 comprises a body adhering composition formed of a polyethylene oxide, as disclosed in column 15, lines 58-67. The support layer 66 melts at a temperature threshold of 35 degrees C, as disclosed in column 13, lines 10-12. The support layer 66 is soluble in water at and above 25 degrees Celsius, as disclosed in column 10, lines 36-53 and column 13, lines 1-23. It is the examiner's position that since the support layer is soluble in water, at 100% humidity, the support layer is therefore promoted at 100% humidity, which is greater than 30% humidity. The support layer 66 is therefore capable of exposing the skin protective ingredient containing layer to the skin of a wearer after dissolving.

6. With respect to claim 11, the article further comprises leak-preventive cuffs 32.

7. With respect to claims 16 and 17, the skin-protective ingredient containing layer is located on the topsheet 24 of the article, which fits around the wearer's thighs and abdominal region.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./
Examiner, Art Unit 3761

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761

Notice of References Cited	Application/Control No. 09/761,511	Applicant(s)/Patent Under Reexamination HISANAKA, TAKAYUKI	
	Examiner Lynne Anderson	Art Unit 3761	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Elert, Glenn; Temperature of a Healthy Human (Skin Temperature); 2001
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Temperature of a Healthy Human (Skin Temperature)

The Physics Factbook™

Edited by Glenn Elert -- Written by his students
An educational, Fair Use website

[topic index](#) | [author index](#) | [special index](#)

Bibliographic Entry	Result (w/surrounding text)	Standardized Result
Giancoli, Douglas C. <i>Physics</i> . 247 (problem 45).	"Assume that the thickness of tissues is 4.0 cm, that the skin is at 34 °C and the interior at 37 °C and that the surface area is 1.5m ² ."	34 °C
Encarta Encyclopedia	"Baths at skin temperature (about 37 °C/ 98.6 °F) are relaxing and sedative; those hotter or colder are stimulating."	37 °C
Freitas, Robert A. Jr. <u>8.4 Functional Navigation</u> . (8.4.1.1 Thermography of the Human Body.) Nanomedicine.	"After 3 hours in a hot room (50°C), skin temperature differentials amounted to only 2.5°C (= 35°C to 37.5°C), with an average core/surface gradient of ~1°C. With normal clothing in a room at 15-20 °C, mean skin temperature is 32-35°C."	32-35 °C
Koehler, Kenneth R. <u>Body Temperature Regulation</u> . University of Cincinnati Raymond Walters College.	"At room temperature, a person with 2 square meters of body surface area must (when nude) have a skin temperature of almost 32 C when the air is still. This is actually a pretty reasonable estimate."	32 °C
<u>Thinsulate Insulation--Have You Checked Your Clo Lately?</u> 3M.	"In order to remain comfortable, the human body must maintain a skin temperature of 33 °C (91 °F) and be in thermal equilibrium with the environment."	33 °C

Surviving Denali: Cold Toes. NOVA (June 7, 2000). PBS.

"Once we got to camp I measured the temperature of my big toe and found it to be 42°F! Yet in spite of the frigid temperature, I still had feeling in my toes. At the same time my chest temperature was a balmy 88°F."

6 °C

31 °C

The skin is the largest organ in the human body. It protects the body from the sun's rays. It also keeps body temperature normal (37 °C).

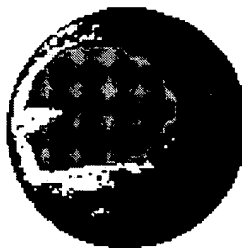
Skin temperature depends on air temperature and time spent in that environment. Such weather factors as wind chill and humidity cause changes in skin temperature. The normal temperature of skin is about 33 °C or 91 °F. The flow of energy to and from the skin determines our sense of hot and cold. Heat flows from higher to lower temperature, so the human skin will not drop below that of surrounding air, regardless of wind. If a person was to be in a warm room and her skin temperature was cooler than the air, her skin temperature would rise. The opposite would happen in a cold room and warm skin temperature. The person's temperature would decrease. Humans fight air temperature by becoming warm or cold. When warm, they sweat. When cold, they get chills.

On a trip during a windy and snowy day, a man recorded his skin and body temperature while climbing a mountain. The skin temperature of his toe was about 15 °C. At the same time, the temperature of his chest was 32 °C. This shows that different parts of the body have different skin temperatures.

Abanty Farzana -- 2001

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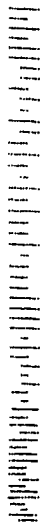
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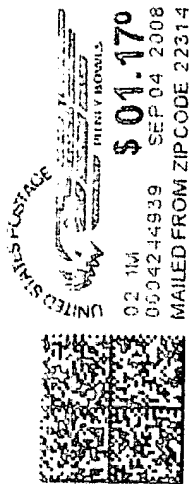
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